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EXAMINER

OCAMPO, MARIANNE S

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,222

Applicant(s)

SCHUYLER ET AL.

Examiner

Marianne S. Ocampo

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-24 and 26-29 is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-21 and 30 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of the annular base member including a cross-support rod (i.e. only one or a single cross-support rod, and not a pair as in the original figures/drawings provided), as in claim 7 must be shown or the feature should be canceled from the claim. **No new matter should be entered.**

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 3 is objected to because of the following informalities: the number "2" after the word "claim" in line 1, should be changed to "1" since claim 2 has been canceled by amendment A (Paper no. 7) on 5-5-03. Appropriate correction is required.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

4. A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1, 3 – 5, 7, 9, 12, 14, 16 – 20, 22, 24 and 28 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 – 2, 4 – 6, 10, 13, 15 – 16 and 20 of copending Application No. 10/105,635. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

6. Claims 1, 3 – 5, 7, 9, 12, 14, 16 – 20, 22, 24 and 28 of this application conflict with claims 1 – 2, 4 – 6, 10, 13, 15 – 16 and 20 of Application No. 10/105,635. 37 CFR 1.78(b)

provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Claim 7 which depends from the independent claim 1, further adds the limitation that the annular base member (which is a part of the stationary ring member) including a cross-support rod (i.e. only one or single cross-support rod) and not a pair of cross-support rods. First of all this limitation of *only one or a single cross-support rod in the annular base member* is considered **new matter** and has not been described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Claim 7 must be canceled for introduction of new matter, or amended such that the annular base member includes the pair of cross-support rods (already claimed in base claim 1) and not a single one as it is currently claimed.

Note that in the following rejections and for future reference, the examiner has considered “cross-support rod” being one I-shaped rod or flange which crosses the center of the cartridge to extend across one point to another opposite point thereof, as indicated in fig. 6 as 326-1, and not a cross-shaped support rod.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 3 – 7, 9 – 10, 12 – 21 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connors et al. (WO 97/24169).

11. With respect to claim 1, Connors et al. disclose a filter cartridge a generally cylindrical filter body having a fluid filtration media (16, 116 or 506) and at least one length-adjustable end cap (20, 150 or 508) attached to an (upper) end of the filter body, wherein the length-adjustable end cap includes an annular stationary ring member (44, 61, 55 or 524, 540) and a moveable connection member (42 or 522) slideably received within the annular stationary ring member so as to be moveable longitudinally relative thereto, as in figs. 1 – 2, 4b, 11a – 11b and 13a – 13b and pages 16 – 38. Connors et al. further disclose one of the stationary ring member and the moveable connection member, in particular that of the moveable connection member (522 of embodiment shown in figs. 13a – 13b) includes a cross-support or handle (512 similar to 24 shown in fig. 4a), as in figs. 13a – 13b and pages 38 – 43. Although Connors et al. disclose or teach the moveable connection having only one cross-support, instead of a pair of cross-supports, it is considered obvious to one of ordinary skill in the art at the time of the invention to modify the moveable connection member of Connors et al. by having more one cross-supports or forming it with multiple cross-supports such as a pair of cross-supports, for a multiplied support effect. Having more than one cross-support, i.e. at least a pair of cross-supports, which is considered a mere duplication of parts (in this instance, duplication of the cross-support from one to two) for a multiplied effect (such as providing a much more stable support and durable handle) does not carry any patentable weight or significance unless a new or unexpected result is produced. See M.P.E.P. section 2144.04 part VI paragraph B and the case law, *In re Harza* [274 F.2d, 124 USPQ 378 (CCPA 1960)]. In this rejection, the examiner has considered *the pair of cross-support rods being a pair of I-shaped rods crossing each other at*

the center of intersection (as shown in fig. 6 as 326-1) and not a pair of cross-shaped support rods.

12. With regards to claim 3, Connors et al. also disclose the moveable connection member (42 or 522) including a cylindrical neck portion (57 or 523, 532) and a flange portion at one end of the neck portion (46 or 532), as in figs. 2, 4 and in figs. 13a -13b.

13. Concerning claims 4 and 7, Connors et al. disclose the length-adjustable end cap including an annular base member (only the first embodiment in fig. 4b, 50) attached to an end of the cylindrical filter body (16, 518) and the stationary ring (44, 61, 55) is generally cylindrical and protrudes upwardly from the annular base member (50), wherein the annular base member (50, 52) includes the *cross-support* rod (in the form of a handle 24 and the term “cross-support” had been broadly interpreted by the examiner as any rod or flange that crosses a center to extend across from one point to another opposite point of reference), as in fig. 4b. With regards to claim 7, the limitation of the annular base member including only one or a cross-support rod (i.e. one of I-shaped flanges or rods indicated as 326-1 in fig. 6) lacks proper antecedent basis in the specification. The original specification provides for a multiple (i.e. a pair) of cross-support rods in the embodiments in which the rods are in one of the stationary ring member and the moveable connection member.

14. Regarding claim 5, Connors et al. also disclose the stationary ring member (55, 61, 44) being positioned along a radial dimension of the base member (50) so as to provide an essentially balanced pressure condition on interior and exterior regions thereof, as in figs. 1 – 2.

15. With regards to claim 6, Connors et al. also disclose the stationary ring member (55) being positioned substantially midway along a radial dimension of the annular base member (50), as in fig. 4b.

16. With respect to claim 9, Connors et al. disclose the cartridge further comprising a bottom end cap (22, 170, 510) attached to another end of the filter body opposite the length-adjustable end cap, as in figs. 1 – 2, 11a – 11b and 13a – 13b.

17. Regarding claim 10, Connors et al. also disclose the bottom end cap (22) includes an arcuate central wall (38) which protrudes into an interior space of the cylindrical filter body, as in figs. 1 – 2.

18. With regards to claim 12, Connors et al. further disclose the filter body including a non-woven mass of melt-blown polymeric fibers, as in page 26, lines 1 – 14.

19. Concerning claim 13, Connors et al. disclose the filter body including a pleated fluid filter medium, as in page 23, lines 7 – 11.

20. With respect to claim 14, Connors et al. also disclose the stationary ring member (540) including a seal ring (526) in slideable sealing contact with the neck portion (532) of the moveable connection member (522, 508), as in figs. 13a – 13b.

21. Concerning claim 15, Connors et al. further disclose the neck portion (532) including a stop member (a flange which has the contact surface 534) which contacts the seal ring (526) and thereby limit the movement of the moveable connection member (522, 508), as in fig. 13b.

22. With regards to claim 16, Connors et al. disclose the length –adjustable end cap including a stationary ring member (44, 61, 55 or 540, 524) and a moveable connection member (42 or 532, 508, 522) which carries an O-ring seal (48 or 526) and wherein the moveable connection member is slideably received within the stationary ring member (in the recess 54 of 40 or 540) such that the O-ring (48, 526) is in sliding sealing contact with the moveable connection member (42 or 532, 522), as in figs. 4b and 13a – 13b.

23. Regarding claim 17, Connors et al. further disclose the length-adjustable end cap including an annular base member (50 or 524) attached to an end of the filter body (16 or 518) and wherein the stationary ring member (55 or 540) is generally cylindrical and is integrally joined to and extends upwardly from the annular base member (50 or 524), as in figs. 4b and 13b.

24. Concerning claim 18, Connors et al. also disclose the length-adjustable end cap including a cylindrical neck portion (57 or 532) slideably received within the stationary ring member (in recess 54 of 40 or 540) and in sealing contact with the seal ring (48, 59 or 526) and a flange portion (46 or forming the contact surface 548) transversely positioned at an uppermost end of the neck portion (57 or 532), as in figs. 4b and 13b.

25. With regards to claim 19, Connors et al. disclose the neck portion (57) including a recess and an O-ring seal (59, 48) seated within the recess so as to be in sealing contact with an interior cylindrical surface (within the recess 54) of the stationary ring (40), as in fig. 4b.

26. With respect to claim 20, Connors et al. further disclose the fluid filtration media including a non-woven mass of melt-blown polymeric fibers, as in page 26, lines 1 – 14.

27. Concerning claim 21, Connors et al. disclose the fluid filtration media including at least one non-woven or woven pleated sheet of fluid filtration material, as in pages 23 - 26.

28. With respect to claim 30, Connors et al. further disclose a filter housing (not all parts shown, 10) comprising a rigid basket member (14) having a generally cylindrical sidewall and a filter cartridge (12) as in claims 1 or 22 positioned in the basket member (14), wherein the

length-adjustable end cap (20) allows the filter cartridge (12) to assume a length dimension substantially the same as the side wall of the basket member, as in figs. 1 – 2.

29. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connors et al. in view of Farrow et al. (US Re 29,447).

30. With regards to claim 11, Connors et al. fail to disclose the bottom end cap having a series of integral radial support ribs. Farrow et al. teach an end cap (16, which could be a top or bottom end cap) for a filter cartridge having a series of integral radial support ribs joining two concentric rings which form the inner and outer peripheries of the end cap (16), as in figs. 1 and 6. It is considered obvious to one of ordinary skill in the art at the time of the invention to modify the bottom end cap of Connors et al. by adding the embodiment of the end cap taught by Farrow et al. in order to provide an improved bottom end cap having means for providing additional support for the lower end of the filter body.

Allowable Subject Matter

31. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 22 – 24 and 26 – 29 contain allowable subject matter.

32. The following is a statement of reasons for the indication of allowable subject matter: the closest prior art include Connors et al. (WO 97/24169) and Farrow et al. (US Re. 29447). However none of these prior art and those searched, have disclosed or rendered obvious a filter cartridge having the limitation of the length-adjustable end cap further including a series of radially extending buttresses joined to the stationary ring member and the annular base member thereof, as in claim 8 and a filter cartridge having the combination of limitations recited in claim 22, in particular having a series of radially extending buttresses joined to the stationary ring member and the annular base member of the length-adjustable top end cap, as in claim 22.

Response to Arguments and Amendments

33. Applicant's amendments and arguments filed 5-5-03 (Paper no. 7) with regards to claims 1 and 3 - 21 have been fully considered but they are not persuasive. Although it is true that the primary reference, Connors et al., as a single prior art failed to disclose/show a pair of cross support rods, it is considered obvious to one of ordinary skill in the art to modify the invention (i.e. filter cartridge of Connors et al. having only one cross-support in either one of the stationary ring member or moveable connection member of the length-adjustable end cap thereof) of the prior art Connors et al., in such a way it could have more than just one, in other words, a multiple or at least two/pair of cross-supports to further stabilize and provide a sturdier and durable and easier to manipulate handle structure for the filter cartridge (i.e. multiplied effect of one cross-support/handle). Having more than one cross-support or handle structure (such as

the one indicated as 24 in fig. 4b of Connors et al.) would provide more than one gripping surfaces and therefore easier for handling and removal of the filter cartridge from its housing. See also 103 rejection of claim 1 in paragraph 11 above for more details.

34. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

35. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (703) 305-

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1039. The examiner can normally be reached on Mondays to Fridays from 8:00 A.M. to 4:30 P.M..

37. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

38. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


M.S.O.

July 11, 2003


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700